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13 Adobe Systems Inc.

14 UNITED STATES DISTRICT COURT
15
16 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

17 IN RE: HIGH-TECH EMPLOYEE
18 ANTITRUST LITIGATION

Master Docket No. 11-CV-2509-LHK

19 THIS DOCUMENT RELATES TO:
20
21 ALL ACTIONS

22 **DECLARATION OF DAVID C.
23 KIERNAN REGARDING
24 DEFENDANT ADOBE SYSTEMS
25 INCORPORATED'S PRODUCTION
26 OF DATA AND DOCUMENTS**

1 I, David C. Kiernan, declare as follows:

2 1. I am a member of the Bar of the State of California and a partner in the law firm of
3 Jones Day, attorneys for Defendant Adobe Systems Incorporated (“Adobe”). Pursuant to the
4 Court’s June 5, 2012 Case Management Order, I submit this declaration regarding Adobe’s
5 production of data and documents to date. I have personal knowledge of the facts set forth in this
6 declaration and, if called to testify as a witness, could and would do so competently.

7 **Data Production**

8 2. On April 10, 2012, Adobe produced what it believed was all compensation data for
9 its U.S. salaried employees. On May 8, 2012, Plaintiffs sent Adobe questions regarding the data
10 and informed Adobe that data regarding equity grants appeared to have been omitted. Adobe
11 produced supplemental data on May 15 and May 25; Adobe also answered all plaintiffs’
12 questions and met with plaintiffs’ consulting expert regarding the data.

13 3. On June 14, 2012, Adobe discovered that compensation data for a small number of
14 salaried employees had not been collected due to how the employees were categorized in the
15 database. The next day Adobe produced compensation data for those employees. In addition, to
16 avoid any unforeseen issues, Adobe produced compensation data for all its remaining employees
17 regardless of how they are categorized in the database. Adobe is investigating whether additional
18 compensation data exists for the small number of salaried employees that was produced on June
19 15, 2012. The parties are meeting and conferring over plaintiffs’ request for overtime
20 compensation data pursuant to this Court’s June 4 Order. To the best of its knowledge, Adobe
21 has completed its production of compensation data for all U.S. salaried employees except for the
22 possible production of additional compensation data for the salaried employees for which data
23 was produced on June 15, 2012 and overtime data.

24 4. On May 8 and 9, 2012, Adobe produced its recruiting and hiring data. It also
25 produced supplemental recruiting and hiring data on May 15 and May 30, 2012. With those
26 productions, to the best of its knowledge, Adobe has completed its production of recruiting and
27 hiring data.

Adobe's Document Production

5. To the best of its knowledge, Adobe substantially completed its document production on June 15, 2012. In addition to its November 2011 production of 2,235 documents previously produced to the Department of Justice, Adobe reviewed and produced documents pursuant to two "tracks" agreed to by the parties.

6. For Track One documents, Adobe collected and produced responsive, high-level documents without running search terms.

7. For Track Two documents, Adobe ran search terms (nearly all of which were proposed by plaintiffs) against electronically stored information of certain custodians. Adobe began rolling production of documents on April 10, 2012 followed by productions on May 9, May 25, June 7, and June 15, 2012. In sum, Adobe has produced 9,714 document in addition to the 2,235 documents from the DOJ investigation, for a total of 11,949 documents (approximately 46,529 pages).

8. There are two categories of documents that remain. First, as discussed with plaintiffs, Adobe and the other defendants are completing their respective privilege reviews. Adobe will produce, on a rolling basis, any potentially privileged documents ultimately determined not to be privileged. Second, Adobe is reviewing additional documents that were not processed before June 15, 2012. Adobe expects that the production of responsive documents from this review will account for a small percentage of Adobe's overall production. On June 14, 2012, I advised Mr. Harvey that Adobe was completing this review and that additional documents would be produced.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 18th day of June 2012 in San Francisco, California.

By: 

David C. Kiernan